

### **REMARKS**

Reconsideration of this Application is respectfully requested. Applicants have addressed every objection and ground for rejection stated in the present Office Action, and believe the Application is now in condition for allowance.

#### **1. Statement of the Case and Status of the Claims.**

The present invention provides a novel electrode active material wherein the positive electrode comprises active material particles having an inner region and an outer region, wherein the inner region comprises a cubic spinel lithiated manganese oxide, and the outer region is enriched in  $Mn^{+4}$  relative to the inner region.

Claims 45 - 69 are currently pending in the present Application. Upon entry of the present Amendment, Claims 45 - 69 will be cancelled, and Claims 70 - 93 will be pending. Care has been taken in the present Amendment to ensure that no new matter has been added. Support for the new Claims can be found in the specification as filed.

#### **2. Claim Rejections**

Claims 45 - 49, 51 - 52, and 60 - 69 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,558,844 to Howard et al. ("Howard '844") in view of Amatucci et al., Solid State Ionics, v. 104, pp. 13-25 (1997) ("Amatucci reference").

Claims 45 - 49, 51 - 52, 54 - 55, 58, 60, 63 - 64 and 66 - 69 stand rejected under 35 U.S.C. §102(b) as being anticipated by EP 0 592 294 A1 to Yamamoto et al. ("Yamamoto '294").

Claims 45 - 49, 51 - 52, 54 - 69 stand rejected under 35 U.S.C. §103(b) as being unpatentable over Howard '844 in view of the Amatucci reference, and in further view of EP 0 265 950 to Furukawa et al. ("Furukawa '950").

Claims 45 - 49, 51 - 52, 54 - 55, 58 - 64 and 66 - 69 stand rejected under 35 U.S.C. §102(b) as being anticipated by Yamamoto '294 in view of Furukawa '950.

However, the Examiner has stated the subject matter of Claims 50 and 53 would be deemed allowable if rewritten in independent form. In substantial accordance with the Examiner's suggestion, Applicants have deleted Claims 45 - 69, and have presented new Claims 70 - 93. New independent Claim 70 recites, among other things, a battery comprising positive electrode active material particles having an inner region and an outer region, wherein the inner region comprises a cubic spinel lithiated manganese oxide, and *the outer region comprises  $A_2MnO_3$ , wherein A is an alkali metal other than lithium (Li).*

Applicants respectfully submit that the prior art of record does not teach or suggest Applicants' invention as claimed in new independent Claim 70. Specifically, Applicants submit the prior art of record does not teach or suggest a cubic spinel lithiated manganese oxide active material having an outer region comprising  $A_2MnO_3$ , wherein A is an alkali metal other than lithium (Li). Therefore, Applicants submit that new Claims 70 - 93 are patentable over the prior art of record. Accordingly, Applicants respectfully request withdrawal of the present rejections.

### 3. Summary


In view of the remarks presented herein, Applicants submit that all objections and grounds for rejection stated in the present Office Action have been overcome. Accordingly, Applicants respectfully submit that new Claims 70 - 93 are allowable over the prior art of record.

Should anything further be required, the Examiner is respectfully requested to telephone the undersigned at 702-558-1071.

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Respectfully submitted,

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